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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,301	01/13/2006	Atsushi Kikuchi	Q87762	5170
23373 7590 10/17/2008 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER AUGHENBAUGH, WALTER	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 10/17/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/533,301

**Applicant(s)**

KIKUCHI ET AL.

**Examiner**

WALTER B. AUGHENBAUGH

**Art Unit**

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 6-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 7/03/08
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Acknowledgement of Applicant's Amendments***

1. The amendments made in claims 1, 2 and 6 in the Amendment filed July 3, 2008 have been received and considered by Examiner.

***WITHDRAWN REJECTIONS***

2. All 35 U.S.C. 102 and 103 rejections made of record in the previous Office Action mailed April 3, 2008 have been withdrawn due to Applicant's amendment in claim 1 in the Amendment filed July 3, 2008.

***NEW REJECTIONS***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

4. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al. (USPN 4,528,219).

In regard to claim 1, Yamada et al. teach a multilayer preform comprising a layer of a polyester resin that contains ethylene terephthalate units (PET) (col. 11, lines 22-60). Yamada et al. teach that the multilayer preform is formed by compression molding (which is compression forming) (col. 11, lines 47-51). The time is not shorter than 300 seconds before a calorific value of isothermal crystallization of the layer of the polyester resin of the preform of Yamada et al. at 210°C reaches a maximum value because Yamada et al. teach that the preform comprises a layer of a polyester resin that contains ethylene terephthalate units that is formed by compression

molding (col. 11, lines 22-60), which meets the structural and compositional limitations of the claim.

In regard to claim 2, the polyester resin contains ethylene terephthalate units in an amount of 100%, which is more than 95% (col. 11, lines 22-25 and lines 41-60).

In regard to claim 3, recycled polyester resins fall within the scope of the teaching of Yamada et al. of PET (col. 7, lines 34-38). For example, recycled polyethylene terephthalate is polyethylene terephthalate.

In regard to claim 4, Yamada et al. teach that the preform comprises a layer of a thermoplastic resin other than the layer of polyester resin (col. 11, lines 22-60).

In regard to claim 5, Yamada et al. teach a preform that corresponds to the preform claimed in claim 5 (col. 11, lines 22-60).

#### ***Response to Arguments***

5. Applicant's arguments on pages 5-8 of the Amendment regarding the 35 U.S.C. 102 and 103 rejections of the claims are moot due to the withdrawal of these rejections in this Office Action.

The prior art reference applied in this Office Action, Yamada et al., teaches a preform that comprises a layer of a polyester resin that contains ethylene terephthalate units that is formed by compression molding (col. 11, lines 22-60).

#### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is (571) 272-1488. While the examiner sets his work schedule under the Increased Flexitime Policy, he can normally be reached on Monday-Friday from 8:45am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Walter B Aughenbaugh /  
Examiner, Art Unit 1794

10/11/08

/Rena L. Dye/  
Supervisory Patent Examiner, Art Unit 1794